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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,967	05/24/2001	Shawn P. Fojtik	4623US	3455

24247 7590 12/31/2002

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EXAMINER

LAM, ANN Y

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/864,967

Applicant(s)

FOJTIK, SHAWN P.

Examiner

Ann Y. Lam

Art Unit

3763

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.


Claim(s) rejected: 1-27.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

 12/23/02

Continuation of 2. NOTE: Applicant's arguments are not persuasive. Applicant argues that a catheter is not a syringe. Examiner however asserts that the device disclosed by Langer has all the claimed elements and is considered a syringe, as claimed by Applicant. A catheter is defined by Webster's, Tenth Edition, as a tubular medical device for insertion into canals, vessels, passageways, or body cavities, usually to permit injection or withdrawal of fluids or to keep a passage open. A syringe is defined as a device used to inject fluids into or withdraw them from something. Thus, the definition of a syringe does not exclude a catheter. Applicant also argues that Langer does not describe a plunger insertable into a receptacle of a syringe barrel. Examiner reasserts that Langer discloses such a plunger at (40 and 38). Applicant also argues that Langer does not disclose a handle that includes a member that is connected to a plunger, but instead discloses a member secured to a wire (40), which in turn is connected to plunger (38). Examiner asserts that the plunger constitutes (40 and 38), and in any case, the claims do not require a direct connection between the member and the plunger. Applicant also argues that Langer does not describe a handle that is pivotally connected to a plunger, or for that matter, that is pivotally connected to wire (40). Examiner asserts that Langer describes such a handle, see column 6, lines 55-60.

  
ANH TUAN T. NGUYEN  
PRIMARY EXAMINER  
12/27/22